

REMARKS

Claims 1-24 are pending in this application. Applicants respectfully request reconsideration and prompt allowance of the pending claims, at least in light of the following remarks.

I. Allowable Subject Matter

Applicants thank the Examiner for the indication that claims 6-12 and 17-24 contain allowable subject matter. However, Applicants assert that all of the pending claims are allowable, at least in light of the following remarks.

II. Telephone Interview

Applicants appreciate the courtesies shown to Applicants' representative by Examiner Collado in the December 18, 2008 telephone interview. In the December 18 telephone interview, Examiner Collado clarified that the WO 2004/030971 reference cited in the 35 U.S.C. §102(b) rejection of claims 1-5 and 13-16 is an international patent application publication and not an issued U.S. patent. Applicants' separate record of the substance of the interview is incorporated into the following remarks.

II. The Claims Define Patentable Subject Matter

The Office Action rejects claims 1-5 and 13-16 under 35 U.S.C. §102(b) over International Patent Application Publication No. WO 2004/030971 to Nagaya. The rejection is respectfully traversed.

Nagaya fails to qualify as a §102(b) reference. The publication date of Nagaya is April 15, 2004. Nagoya was published from a PCT application filed in the Japanese language. Thus, the reference date of Nagoya is its publication date of April 15, 2004.

However, the pending application is a National Stage of a PCT application which was filed on September 24, 2004. The effective filing date of the pending application is less than one year after the publication date of Nagaya. Thus, Nagaya fails to qualify as a §102(b)

reference. Furthermore, Applicants' claim of foreign priority relies on Japanese Patent Application No. 2003-341169 filed on September 30, 2003 and Japanese Patent Application No. 2004-032323 filed on February 9, 2004. These dates pre-date the April 15, 2004 publication date of Nagaya and thus would disqualify Nagaya as a §102(a) reference.

Applicants respectfully request withdrawal of the rejection.

III. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,


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Date: March 10, 2009

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